

REMARKS

The Official Action objects to the drawings for not showing the flange. The flange is shown (unnumbered) in Figure 5 as the projection from the side of the bottom of key top 22 that extends under the lip of front case 21. Reconsideration and withdrawal of the objection to the drawings are respectfully requested.

Claims 1-3 and 6-8 (and presumably claims 11-13) were rejected as unpatentable over the Admitted Prior Art (APA). Reconsideration and withdrawal of the rejection are respectfully requested.

The Official Action states that the APA does not disclose the conical presser of claim 1 but asserts that changing the form or shape of a prior art part is within the skill of an ordinary person in the art when the change of form or shape lacks criticality.

Initially, it is to be noted that the case cited in the Official Action (In re Dailey and Eilers, 149 USPQ 47, CCPA 1966) does not hold that lacking any criticality, changing the form or shape of prior art parts is within the skill of an ordinary person in the art. The case concerns the patentability of a baby bottle nipple that is collapsible so that air is not admitted as the contents are drained. The Court states that the primary reference discloses that the flexible portion of its container is drawn into the rigid top portion, filling the space thereof, and

that the Appellants presented no argument which convinced the Court that the particular configuration of the claimed container is significant or is anything more than one of numerous configurations a person of ordinary skill in the art would find obvious for the purpose of providing mating surfaces in the collapsed container of the prior art. In other words, the operation of the device did not change as a result of the change of shape; both shapes provided mating surfaces in the collapsed container.

However, in the application the change in form or shape changes the operation of the device. As explained at page 9, lines 5-17 and page 10, lines 13-24, the change in shape of the presser changes the illumination pattern from that shown in Figure 2 to the one shown in Figure 6. The entire side surface of the presser to which light is applied becomes highly illuminated, causing a large area of illumination. This is a significant improvement in operation of the pushbutton. The specification as filed explains the criticality of this feature at the above-noted sections and thus the criticality is not lacking.

There is nothing the APA that suggests an improvement is achievable from a change in shape of the presser to conical as claimed and thus the claims avoid this rejection under §103.

Claims 4-5, 9-10, and 14-15 were rejected as unpatentable over the APA in view of RUDISILL 5,711,588. The

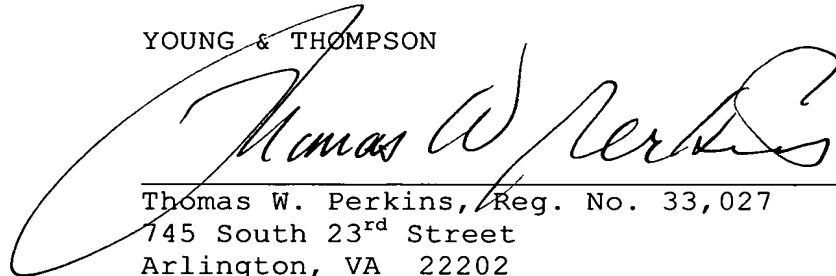
further reference does not make up the shortcomings of the APA noted above and thus these claims are allowable for the reasons given above.

In view of the present amendment and the foregoing remarks, it is believed that the present application has been placed in condition for allowance. Reconsideration and allowance are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

A large, stylized handwritten signature in black ink, which appears to read "Thomas W. Perkins". The signature is written over a horizontal line.

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